

CAUSE NO. PD-0203-19

STATE OF TEXAS

VS.

MATTHEW JOSEPH ALLEN

§ **IN THE COURT OF** FILED
§ COURT OF CRIMINAL APPEALS
§ 7/14/2020
§ **CRIMINAL APPEALS** DEANA WILLIAMSON, CLERK
§
§ **STATE OF TEXAS**

**FIRST MOTION FOR LEAVE TO LATE-FILE
POST-SUBMISSION QUESTION IN LIGHT OF THE
UNITED STATES SUPREME COURT DECISION OF
RAMOS v. LOUISIANA, 590 U.S. _____, 2020 WL 1906545 (04/20/2020)**

TO THE HONORABLE JUSTICES OF SAID COURT:

Now comes Matthew Joseph Allen, Appellant in the above styled and numbered cause, and respectfully requests leave to late-file this single post-submission question in light of the United States Supreme Court decision of *Ramos v. Louisiana*, 590 U.S. _____, 2020 WL 1906545 (04/20/2020), and for good cause shows the following:

1. Matthew Joseph Allen was convicted under § 21.02 of the Texas Penal Code, specifically sub-paragraph (d) which provides that “If a jury is the trier of fact, members of the jury are not required to agree unanimously on which specific acts of sexual abuse were committed by the defendant or the exact date when those acts were committed.” TEX. PEN. CODE § 21.02(d).

2. The Charge of the Court (CR: 231-246) also instructed the Jury in *Allen* that “In order to find the defendant guilty of the offense of Continuous Sexual Abuse of a Young Child, you are not required to agree unanimously on which specific acts of sexual abuse were committed by the defendant or the exact date when those acts were committed.” (CR: 233-234).

3. In light of *Ramos v. Louisiana*, 590 U.S. _____, 2020 WL 1906545 (April 20, 2020), does § 21.02(d) of the Texas Penal Code now require members of the jury to agree unanimously on which specific acts of sexual abuse were committed by the defendant...” in order to secure a conviction for Continuous Sexual Abuse of a Child? If so, with exception of the judgments of conviction that have already been reversed and acquittals rendered in favor of Matthew Joseph Allen, all other judgments of conviction should be reversed in *Allen* and remanded to the Trial Court with instructions that Matthew Joseph Allen be granted a new trial,

WHEREFORE, PREMISES CONSIDERED, Appellant respectfully requests leave to late-file this single post-submission question in light of the United States Supreme Court decision of *Ramos v. Louisiana*, 590 U.S. _____, 2020 WL 1906545 (04/20/2020).

Respectfully submitted,

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/s/ Marc J. Fratter

By: _____

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CERTIFICATE OF SERVICE

This is to certify that on July 12, 2020, a true and correct copy of the above and foregoing document was served on the Collin County District Attorney's Office at the Russell A Steindam Courts Building, 2100 Bloomdale Road, Suite 100, McKinney, Texas 75071, by electronic service through the Electronic Filing Manager.

/s/ Marc J. Fratter

Marc J. Fratter

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